

Abstract

Civil Liability in the Case of Disrespecting a Patient's Advance Directives

The aim of this thesis is to analyse and describe the problematic of Civil Liability in the specific case of disrespecting a patient's advance directives by a medical.

The institute of Advance Directives was first introduced in the Czech law by the Convention on Human Rights and Biomedicine in 2001 and later by the Law No. 372/2011 Coll., Act on Health Care Provision. Though the Advance Directives cannot be considered as a new institute in the Czech law, it is hardly ever used in practice. There is no judicature and practical knowledge on the topic of civil liability in this case, and the insecurity causes that doctors do not feel like willing to respect the exceptionally occurring advance directives, because they fear the criminal liability they think that could arise if they did not provide the health care necessary for saving life of their patient.

This thesis is trying to highline the importance of a patient's will. Meanwhile, it is pointing to the fact that even saving a patient's life can cause legal liability of a doctor. The thesis is primarily analysing and describing such liability within the general provisions on liability in the Czech Law and is also trying to give an insight to the problematic of potential claims arisen from the civil liability in the specific case of disrespecting a patient's advance directives. It is using other legal institutes and judicature concerning different topics to create hypothesis about potential attitude towards the problematic in question. The thesis is also considering attitude of foreign legal environment, especially in connection to the problematic of wrongful birth and wrongful life claims, which have a lot in common with the advance directives. Last but not least, it is presenting first practical attempts to raise public awareness on advance directives in Czech Republic.